

**REMARKS**

Claims 1-20 are pending in the present application. No claims were canceled; claims 9 and 15 were amended; and no claims were added. Reconsideration of the claims is respectfully requested.

**I. 35 U.S.C. §102, Anticipation, Claims 1, 8, and 15**

The Examiner has rejected claims 1, 8, and 15 under 35 U.S.C. Section 102 as being anticipated by both *Tavori* (U.S. Patent No. 5,724,025) and *Suzuki et al* (U.S. Patent No. 6,569,094). This rejection is respectfully traversed.

With regard to claim 1 being anticipated by *Tavori*, the Examiner states:

Claim 1. A method for personal stress monitoring comprising: (a) receiving one or more physiologic indicators; (sensors 28-39) (b) comparing values of the one or more physiologic indicators to corresponding baseline values; (column 7, lines 33-56, upper limit, lower limit, and delta) (c) determining if, in response to step (b) if the one or more physiologic indicators equals or exceeds at least one preselected threshold condition relative to baseline values (column 7, lines 44-56, upper limit, lower limit, and delta); and (d) if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded, (alarm signal 23).

(Office Action, dated October 5, 2004, page 2).

With regard to claim 1 being anticipated by *Suzuki*, the Examiner states:

Claim 1. A method for personal stress monitoring comprising: (a) receiving one or more physiologic indicators; (Physiological sensors 1026, 1027, 1028, 1029, 10211, 10212 in figure 1) (b) comparing values of the one or more physiologic indicators to corresponding baseline values; (S818 in figure 8) (c) determining if, in response to step (b) if the one or more physiologic indicators equals or exceeds at least one preselected threshold condition relative to baseline values (S818 in figure 8); and (d) if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded, ( S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis").

(Office Action, dated October 5, 2004, page 6).

Independent claim 1, which is representative of independent claims 8 and 15 with regard to similarly recited subject matter, reads as follows:

1. A method for personal stress monitoring comprising:
  - (a) receiving one or more physiologic indicators;
  - (b) comparing values of the one or more physiologic indicators to corresponding baseline values;
  - (c) determining if, in response to step (b) if the one or more physiologic indicators equals or exceeds at least one preselected threshold condition relative to baseline values; and
  - (d) if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir.1990). The *Tavori* and *Suzuki* references cited by the Examiner do not anticipate the present invention as recited in claim 1, because *Tavori* and *Suzuki* fail to teach each and every element of the claim.

The rejected independent claim 1 recites, "if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded." The feature of emitting remedial actions corresponding to levels of threshold conditions equaled or exceeded is not taught by *Tavori* or *Suzuki*.

As discussed in the Abstract, *Tavori* is directed towards a system for monitoring vital signs of a live body, with the system including an inquiring device and a portable monitoring device. The monitoring device includes an alarm mechanism which is designed to activate when a predetermined set-point stored in the data storage is exceeded. The system also includes a mechanism for setting or changing the set-points of the alarm mechanism. In summary, *Tavori* is directed towards a system for monitoring vital signs of a live body, with the system including an alarm mechanism.

The Examiner alleges that *Tavori* teaches the emitting of remedial actions corresponding to levels of threshold conditions equaled or exceeded:

(d) if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded, (alarm signal 23).

(Office Action, dated October 5, 2004, page 2).

The alarm signal in *Tavori* that the Examiner referenced does not teach the emitting of remedial actions corresponding to levels of threshold conditions equaled or exceeded. *Tavori* does not even teach the emitting of remedial actions, independent of levels of threshold conditions. Rather, to the contrary, the alarm signal in *Tavori* is "an annunciator, for providing audible warning to notify that an event had occurred" (*Tavori*, column 4, lines 66-67). The *Tavori* alarm signal is either: "an audio alarm such as a speaker or piezo-electric buzzer. . . [a] miniature lamp arrays color coded, bargraph or alpha-numeric displays" (*Id.*, column 5 line 65 to column 6 line 3). Such an alarm device receives and sends basic signals: "the controller may send a signal to alarm device 23 to notify that a signal exceeds the individual test limits or combination of test limits provided in the instructions loaded in the instruction set" (*Id.*, column 6 lines 31-34). Emitting a basic signal such as an audible or visual alarm is not the emitting of remedial actions.

Moreover, *Tavori* does not teach corresponding levels of threshold conditions equaled or exceeded, independent of the emitting of remedial actions. When data measured by sensors exceed upper or lower limits, or the test limits of a normal signal plus a defined delta, a signal is sent to the alarm device "to bring to the attention of the bearer or bystanders that some measured parameter or combination of measured parameters has exceeded the limits provided in the instruction set." (*Id.*, column 7 lines 39-53). Therefore, each individual data signal measured has an upper limit and a lower limit, and a delta, but not multiple corresponding levels of threshold conditions that can be equaled or exceeded.

In summary, *Tavori* teaches an alarm device that by its portable nature provides an audible warning (an annunciator, a speaker, or buzzer) or a visual warning (a color coded miniature lamp array, bargraph or alpha-numeric display) that an event has happened. Although the *Tavori* alarm signals correspond to the detected conditions, each detected condition is associated with one and only one upper or lower level of threshold

condition for a particular physiologic indicator (although the singular threshold can be reset). Therefore, *Tavori* does not teach levels of threshold conditions, or emitting differing remedial actions corresponding to the various levels of threshold conditions.

As discussed in the Abstract, *Suzuki* is directed towards a wearable life support apparatus worn by a user, which includes a presentation unit that presents decision results of the physiological information acquired and recognized to the user. In case of an abnormal comparison result, advice is presented to the user by speech synthesis (*Suzuki*, page 10, lines 23-28). The *Suzuki* apparatus offers the user advice under a variety of circumstances: advising rest for a high pulse rate (column 7, line 33), advising consulting a doctor for high blood pressure (column 7, lines 66-67), advising more sleep if average sleeping time is short (column 8, lines 33-34), advising chewing more slowly while eating (column 8, lines 55-56), advising not to skip eating breakfast (column 8, lines 60-62), advising taking a bath or listening to music when under stress (column 11, lines 53-55), advising taking previously prescribed medication at certain times (column 13, line 50), and even reporting the user's status to a family doctor if the user does not reply to questions (column 7, lines 13-21). In summary, *Suzuki* is directed towards a wearable life support apparatus worn by a user that offers the user a variety of advice under different circumstances.

The Examiner alleges that *Suzuki* teaches the emitting of remedial actions corresponding to levels of threshold condition equaled or exceeded:

(d) if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded, (S812, S820, "In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis").

(Office Action, dated October 5, 2004, page 6).

The decision result presented to the user in *Suzuki* that the Examiner referenced does not teach the emitting of remedial actions corresponding to levels of threshold conditions equaled or exceeded. To the contrary, the decision result presented to the user in *Suzuki* is based upon the equaling or exceeding a single level of an upper or lower threshold for each and every physiologic indicator. Although *Suzuki* teaches presenting a variety of remedial actions to a user, each threshold equaled or exceeded is associated

with one and only one upper or lower level of physiological information (although the singular threshold can be reset) and each remedial action is associated with the equaling or exceeding of one and only one threshold condition. Therefore, *Suzuki* does not teach levels of threshold conditions, or emitting differing remedial actions corresponding to the various levels of threshold conditions.

In contrast to the *Tavori* and the *Suzuki* inventions, the present invention, as recited in independent claims 1, 8, and 15, teaches the emitting of remedial actions corresponding to levels of threshold conditions equaled or exceeded. An example of the different threshold conditions for each physiologic indicator and their corresponding remedial actions are illustrated in Figure 4 and described in the Specification. The Specification describes Figure 4's example with four upper threshold levels, each with its corresponding remedial action. If the first upper threshold, say blood pressure that is 110% of the baseline, is exceeded, the system plays pre-selected soothing music (Specification, page 12 line 27 to page 13 line 3). If the physiologic response exceeds a second upper threshold, blood pressure exceeding 125% of the baseline, the user may be advised to break from their current activity and take a walk (*Id.*, page 13 lines 3-7). A physiologic response exceeding a third upper threshold, higher than the second upper threshold, may prompt the user with a more aggressive remedy, suggesting the user rest (*Id.*, page 13, lines 7-9). Even higher levels of stress as indicated by a physiologic response exceeding a fourth upper threshold may indicate a level of stress that might be potentially harmful to the user, which may warrant alerting a selected third party (*Id.*, page 13, lines 9-16). Neither *Tavori* nor *Suzuki* teach either differing levels of upper or lower threshold conditions equaled or exceeded for a specific physiologic indicator nor does either cited reference teach the emitting of differing remedial actions corresponding to these levels. Therefore, both *Tavori* and *Suzuki* fail to teach all elements of the claimed invention, and thus fail to anticipate the invention as recited in independent claims 1, 8, and 15.

Furthermore, neither *Tavori* nor *Suzuki* teach, suggest, or give any incentive to make the needed changes to reach the presently claimed invention. Absent the Examiner pointing out some teaching or incentive to implement either *Tavori* or *Suzuki* emitting of remedial actions corresponding to levels of threshold conditions equaled or exceeded, one

of ordinary skill in the art would not be led to modify either *Tavori* or *Suzuki* to reach the present invention when the reference is examined as a whole. Absent some teaching, suggestion, or incentive to modify either *Tavori* or *Suzuki* in this manner, the presently claimed invention can be reached only through an improper use of hindsight using the Applicants' disclosure as a template to make the necessary changes to reach the invention.

Therefore, Applicants respectfully request that the rejection of independent claims 1, 8 and 15 under 35 U.S.C. §102 be withdrawn.

Claims 2-5, 9-12 and 14, and 16-20 are dependent claims depending on independent claims 1, 8 and 15, respectively. Applicants have already demonstrated claims 1, 8 and 15 to be in condition for allowance. Furthermore, the Examiner admits that dependent claims 6, 7, and 13 are not disclosed by either *Tavori* or *Suzuki*. (*Office Action*, dated October 5, 2004, page 10). The baseline values comprising a set of nominal values for a population based on one or more factors including height, weight, and gender are discussed below in regards to the rejection of claims 6, 7, and 13 under 35 U.S.C. §103(a). Applicants respectfully submit that claims 2-5, 9-12, 14, and 16-20 are also allowable, at least by virtue of their dependency on allowable claims.

Thus, the rejection of claims 1-5, 8-12, 14, 15, and 16-20 under 35 U.S.C. §102 has been overcome.

## **II. 35 U.S.C. §102, Anticipation, Claims 9, 14, and 20**

The Examiner has rejected claims 9, 14, and 20 under 35 U.S.C. Section 102 as being anticipated by *Suzuki et al* (U.S. Patent No. 6,569,094). This rejection is respectfully traversed.

With regard to claim 9 being anticipated by *Suzuki*, the Examiner states:

Claim 9. The computer program product of claim 8 further comprising programming instructions for determining if a remedial action is manually initiated; and retrieving a user selection for said remedial action( S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis", and column 11, lines 10-38).

(*Office Action*, dated October 5, 2004, page 7).

Dependent claim 9 reads as follows:

9. The computer program product of claim 8 further comprising programming instructions for determining if a remedial action is manually selected; and retrieving a user selection for said remedial action.

The rejected independent claim 9 recites, "retrieving a user selection for said remedial action." The feature of retrieving a user selection for remedial actions is not taught by *Suzuki*. The Examiner alleges that *Suzuki* teaches retrieving a user selection for remedial actions by quoting "In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis" from column 10, lines 25-28 and citing the following section:

As mentioned-above, when the user thinks that the message is troublesome, he voices a rejection message such as "Shut up!" or "Stop!". If the user repeatedly utters the rejection message, the system does not present the advice after confirming with the user. This user's indication is preserved in the corpus, and summed up at the end of each month. The fact that the threshold is loosely reset may be presented to the user in order for the user to reconsider. Furthermore, when the present time coincides with a preset time (For example, 10:00 PM, or after dinner), the average value of the physiological information (the blood pressure, the pulse, the body temperature, GSR) of one day is calculated for each behavior, and presented by speech message. If the user is interested in this message, he indicates the behavior to display the detail information. In response to the indication, the detail information (FIG. 18) or the trend graph (FIG. 19) related with the indicated behavior is presented through a portable display or a home television. As the presentation method, the average value of one day of each behavior is displayed as a list, and the trend graph of one week and one month in the past is also displayed in case of indication. Furthermore, the number of footsteps is calculated from the pulse value and the acceleration data, and calorie consumption is calculated from the number of footsteps and the behavior information. The calorie of one day is decided by the consumption calorie and absorbed calorie of all meals. Then, a warning that the user suffers a lack of exercise, the user had too much food, or the nourishment is biased is output to the user.

(*Suzuki*, column 11, lines 10-38).

The option presented to the user in *Suzuki* that the Examiner referenced does not teach retrieving a user selection for remedial actions. To the contrary, the option presented to the user in *Suzuki* is for the system to present or not present advice, based on whether the user has uttered the rejection method. Although *Suzuki* teaches presenting

an option to a user, this option is not a selection of remedial actions. Therefore, *Suzuki* does not teach retrieving a user selection for a remedial action.

In contrast to the *Suzuki* invention, the present invention, as recited in dependent claim 9, teaches retrieving a user selection for remedial actions. For example, page 11, lines 7-14 of the specification describes how a user selection for a remedial action may be retrieved through a menu selection for the user to select an action, or a dialog box for presenting user options.

In step 312, it is determined if the user "manually" elects to initiate a stress-reducing action. In this way, a user anticipating that his or her current activity is likely to induce stress, may take action before symptoms of stress are detected. If, in step 312, the user elects to take a stress-reducing action, which may be effected by a menu selection or similar such device, the user selects the action in step 313, and process 300 proceeds to step 332 described herein below. Step 313 may be effected by a dialog box or similar device for presenting and retrieving user options, however, any mechanism in the data processing arts for receiving user input may be used.

*Suzuki* makes no mention of retrieving a user selection for remedial actions. Therefore, *Suzuki* fails to teach all elements of the claimed invention, and thus fail to anticipate the invention as recited in dependent claim 9.

Furthermore, *Suzuki* does not teach, suggest, or give any incentive to make the needed changes to reach the presently claimed invention. Absent the Examiner pointing out some teaching or incentive to implement *Suzuki* retrieving a user selection for remedial actions, one of ordinary skill in the art would not be led to modify *Suzuki* to reach the present invention when the reference is examined as a whole. Absent some teaching, suggestion, or incentive to modify *Suzuki* in this manner, the presently claimed invention can be reached only through an improper use of hindsight using the Applicants' disclosure as a template to make the necessary changes to reach the invention.

With regard to claim 14 being anticipated by *Suzuki*, the Examiner states:

Claim 14. The computer program product of claim 8 wherein each threshold condition is associated with a remedial action, and wherein the programming instructions further include instructions for selectably overriding a remedial action. (S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis", and column 11, lines 10-38).



(Office Action, dated October 5, 2004, page 8).

Dependent claim 14, which is representative of dependent claim 20 with regard to similarly recited subject matter, reads as follows:

14. The computer program product of claim 8 wherein each threshold condition is associated with a remedial action, and wherein the programming instructions further include instructions for selectably overriding a remedial action.

The rejected independent claim 14 recites, "instructions for selectably overriding a remedial action." The feature of instructions for selectably overriding a remedial action is not taught by *Suzuki*. The Examiner alleges that *Suzuki* teaches instructions for selectably overriding a remedial action by quoting, "In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis" from column 10, lines 25-28 and citing column 11, lines 10-38, the identical citations given for rejecting dependent claim 9, as discussed above.

The rejection option presented to the user in *Suzuki* that the Examiner referenced does not teach selectably overriding a remedial action. To the contrary, the rejection option presented to the user in *Suzuki* is for the system to present or not present advice, based on whether the user has uttered the rejection method. Although *Suzuki* teaches presenting an option to a user, this option is not instructions for selectably overriding a remedial action. Therefore, *Suzuki* does not teach instructions for selectably overriding a remedial action.

In contrast to the *Suzuki* invention, the present invention, as recited in dependent claim 14, teaches instructions for selectably overriding a remedial action. An example of overriding a remedial action is described on page 10, line 23 to page 11, line 5 of the Specification, which states:

The user may also optionally select to override the stress-relief actions in the user profile. These override selections may be made the default alternatively, for the current session only.

By allowing for selectively overriding a remedial action, a user can select which stress-relief or remedial actions to override, and which stress-relief or remedial actions to not override, in contrast to the *Suzuki* all-or-nothing approach. *Suzuki* does not teach

instructions for selectably overriding a remedial action. Therefore, *Suzuki* fails to anticipate the invention as recited in dependent claims 14 and 20.

Furthermore, *Suzuki* does not teach, suggest, or give any incentive to make the needed changes to reach the presently claimed invention. Absent the Examiner pointing out some teaching or incentive to implement *Suzuki* with instructions for selectably overriding a remedial action, one of ordinary skill in the art would not be led to modify *Suzuki* to reach the present invention when the reference is examined as a whole. Absent some teaching, suggestion, or incentive to modify *Suzuki* in this manner, the presently claimed invention can be reached only through an improper use of hindsight using the Applicants' disclosure as a template to make the necessary changes to reach the invention.

Therefore, Applicants respectfully request that the rejection of dependent claims 9, 14 and 20 under 35 U.S.C. §102 be withdrawn. Thus, the rejection of claims 9, 14, and 20 under 35 U.S.C. §102 has been overcome.

### **III. 35 U.S.C. §103, Obviousness, Claims 6-7 and 13**

The Examiner has rejected claims 6-7 and 13 under 35 U.S.C. §103(a) as being unpatentable over *Suzuki et al* (U.S. Patent No. 6,569,094) in view of *Lang et al* (U.S. Patent No. 6,358,208). This rejection is respectfully traversed.

The Examiner bears the burden of establishing a prima facie case of obviousness based on prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). For an invention to be prima facie obvious, the prior art must teach or suggest all claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

The combination of *Suzuki* and *Lang* fail to teach or suggest the present invention as cited in claims 6-7 and 13. Although *Lang* may teach using baseline values comprising a set of nominal values for a population based on one or more factors including height, weight and gender (*Lang*, column 50, lines 1-14), the *Suzuki* reference still does not teach or suggest all the claim limitations in claims 6, 7 (dependent upon claim 1) or in claim 13 (dependent upon claim 8), as argued in response to the rejections of claims 1, 8 and 15 above. Claims 6-7 and 13 are patentable over the cited references

because the combination of the *Lang* reference with *Suzuki* would not teach the presently claimed invention. The features relied upon as being taught in *Suzuki*, emitting remedial actions corresponding to levels of threshold conditions equaled or exceeded, are not taught or suggested by that reference, as explained above. As a result, a combination of these references would not reach the claimed invention in claims 6-7 and 13.

Thus, the rejection of claims 6-7 and 13 under § 103 over *Suzuki* in view of *Lang* has been overcome.

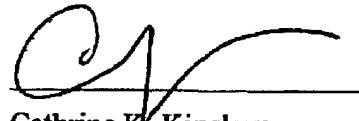
#### IV. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: 1/5/05

Respectfully submitted,



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